REMARKS/ARGUMENTS

Reconsideration and withdrawal of the outstanding grounds of rejection are respectfully requested in light of the above amendments and the remarks that follow.

Applicant notes that the above-identified application has been withdrawn from issue and prosecution on the merits has been reopened.

Applicant gratefully acknowledges the Examiner's allowance of claims 9-16.

The Examiner has rejected claim 17 under 35 U.S.C. § 102(b) as anticipated by any one of Innami, Correa, Wood, Kraft et al. ('509), and Kraft et al. ('438). By this Amendment, claim 17 has been canceled.

The Examiner has also rejected claims 1, 3, 8 and 17 under 35 U.S.C. § 102(e) as anticipated by Bunker et al. ('134).

The rejection as it applies to claim 17 has been rendered moot by the cancellation of that claim.

The Examiner takes the position that the applied reference "has a common inventor with the instant application" and therefore constitutes prior art under 35 U.S.C. § 102(e) since the effective filing date of Bunker ('134) is prior to the effective filing date of the instant application.

In fact, the sole named inventor in the '134 patent is the same sole named inventor as in the instant application and, therefore, the '134 patent does not constitute valid prior art under any section of 35 U.S.C. § 102. In this regard, 35 U.S.C. § 102(e) states that a person shall be entitled to a patent unless:

> The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or, (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent...

Since the Bunker ('134) patent was not granted on an application "by another," that section does not apply here. In fact, an inventor's own prior work can only be applied as prior art if a statutory bar exists under 35 U.S.C. § 102(b). In re Katz, 687 F.2d 450, 215 USPQ 14 (CCPA 1982). Clearly, no such statutory bar exists here.

Accordingly, the Section 102 rejection of claims 1, 3 and 8 as anticipated by Bunker ('134) is improper and should be withdrawn.

The Examiner has rejected claims 10, 11, 14 and 15 under 35 U.S.C. § 103(a) as unpatentable over Bunker ('134).

For the same reasons noted above, Bunker does not constitute valid prior art against the claims of this application and therefore, the Section 103 rejection based on Bunker ('134) is also improper.

It is respectfully submitted that claims 1, 3, 8, 10, 11, 14 and 15 are in condition for allowance along with allowed claims 9 and 16 and early passage to issue is requested. In the event, however, any small matters remain outstanding, the Examiner is encouraged to telephone the undersigned so that the prosecution of this application can be expeditiously concluded.

Respectfully submitted,

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